Court No.2

Writ Petition No. 104 of 2002(M/B)

Ramanand …….. Petitioner

Vs.

District Magistrate, Udham Singh Nagar ……. Respondents

Hon'ble P.C.Verma, J.
Hon'ble Irshad Hussain, J.

This writ petition has been issued against the citation notice issued against the petitioner.

The petitioner was guarantor of Mukhtyar Masih, who took agricultural loan of which recovery is gong on against him. He has moved the application to the D.M. that he is ready to pay the entire amount as is evident from Annexure 3 to the writ petition. Since the principal debtor is ready to pay the entire due, it was not proper for the authorities to proceed against the guarantor. The guarantor can be proceeded with only when the principal debtor was not available and was not in a position to pay the debt.

Here in the present case, the principal debtor has applied to the Collector to recover dues by sale of mortgaged property. Under these circumstances, citation issued against the petitioner can not be sustained. Therefore, the citation issued against the petitioner is quashed.

However, if the amount is not recovered from the principal debtor, it is open for the authorities to proceed against the guarantor.

The petition is dismissed accordingly.

(I.H., J.) **(P.C.Verma, J.)**

Dt. 21.03.2002
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